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VIA FEDEX AND E-MAIL

Mr. Brian Pedrotti
Project Manager
County of San Luis Obispo
Department of Planning and Building
County Government Center
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: Comments Regarding The Final Environmental Impact Report For The Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit

Dear Mr. Pedrotti:

The project team for the Laetitia Agricultural Cluster Project has carefully reviewed the Final Environmental Impact Report for the Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit ("Final EIR" or "FEIR"). Unfortunately, the FEIR maintains the erroneous conclusion that the Rural Lands portion of the proposed agricultural cluster project does not qualify for the parcel bonus applicable to agricultural cluster projects. This conclusion is contrary to the applicable County ordinance and to the County's established policies. In addition, the FEIR's conclusions regarding the Mitigated Project - Applicant Proposed Alternative ("Mitigated Project") overstate the Class I impacts and are unsupported by substantial evidence in the record. The FEIR also continues to impose infeasible and disproportionate mitigation measures on the project. This letter and the attachments address issues with the Final EIR and provide evidence and support for the decision-makers to conclude that the project Applicant is entitled to develop the proposed 102 parcels, to find that the Mitigated Project would result in only a single Class I impact, and to support necessary and appropriate modifications to the Final EIR before it is certified.

I. The Applicant Is Entitled To A "Density Bonus" In Both Rural And Agriculture Lands For The Proposed Agricultural Cluster Project

The FEIR's conclusion that the applicable 2003 Land Use Ordinance ("2003 LUO") does not allow a density bonus in the Rural Lands portion of a proposed agricultural cluster project is inconsistent with the 2003 LUO and with County precedent. (See FEIR, IV-11 – IV-20.) As previously explained, the 2003 LUO, along with the prior findings by the County and prior analysis by County staff, all establish that the "density bonus" for agricultural cluster projects applies to both Agriculture Land and Rural Lands that are in agricultural use. (See December 4, 2012 Comment Letter "LV-11" [explaining density calculations for the project]; see also August 23, 2013 Comment Letter "LV-15" [explaining basis for density bonus in Rural Lands]; October 1, 2013 Comment Letter "LV-25" [providing documents evidencing density bonus applies to both

designated Rural Lands and Agricultural Lands for agricultural cluster projects]; October 2, 2013 Comment Letter “LV-28” [describing County precedent for agricultural cluster projects and history of Laetitia agricultural cluster project with respect to parcels in Rural Lands]; see attached LV-33-1 [providing summary chart regarding parcel bonus for agricultural cluster projects].)

The 2003 LUO clearly states that both lands designated as “Agriculture” lands and “Rural Lands” are eligible for agricultural cluster projects. (See 2003 LUO, at 22.22.150(B); see also Comment Letter “LV-34,” submitted concurrently [providing copy of 2003 LUO].) The 2003 LUO also states that it is “the policy of the Board to *encourage* the use of [agricultural] clustering by allowing the number of clustered parcels to equal the number of dwelling units normally permitted on a standard agricultural land division” (i.e. provide a parcel bonus for agricultural cluster projects). (*Id.*, at 22.22.150, emphasis added.) The 2003 LUO does not distinguish between Rural Lands and Agricultural Lands in providing a parcel bonus for agricultural cluster projects because the primary focus is on whether the property is in agricultural *use*, not whether the property is *designated* as “Agriculture Land.” (See 2003 LUO, at 22.22.150.) The parcel bonus is provided to promote the preservation and protection of agriculture in the County through agricultural cluster projects, regardless of the land use designation. The County staff’s position in the FEIR that the 2003 LUO does not allow a parcel bonus in Rural Lands is inconsistent with the structure and intent of the agricultural cluster ordinance and inconsistent with the Board’s stated policy of *encouraging* agricultural cluster projects by providing a parcel bonus for such projects.

The County’s policy of encouraging agricultural cluster projects through the parcel bonus continues even under the current Land Use Ordinance, and was confirmed by County staff during the unsuccessful attempt in 2012-2013 to amend the ordinance so that Rural Lands no longer qualified for agricultural cluster projects and there would no longer be a parcel bonus. (See Comment Letter LV-25 [providing excerpts of 2012 and 2013 Environmental Impact Report for Agricultural Cluster Program]; see also Comment Letter LV-15 [discussing those environmental documents].) The environmental documents prepared for the proposed amendments clearly describe the County’s established ordinance and policy of providing a parcel bonus for agricultural cluster projects, including on Rural Lands that are part of those projects. County staff now argues that those environmental documents are irrelevant because the Project is vested under the 2003 LUO. (See FEIR, at XI.B-248 [responding to comment LV15-7].) However, the environmental documents discussing the current LUO are relevant because they confirm that the current LUO, like the 2003 LUO, provides a parcel bonus in both Rural Lands and Agriculture Lands for agricultural cluster projects.

The applicant has a vested right to proceed with development of an agricultural cluster project with a “density bonus” on both Rural Lands and Agricultural Lands. The applicable 2003 LUO provides for this density bonus, and it was the established policy of the County to allow a density bonus for agricultural cluster projects at the time the application for the Laetitia project was completed. That policy was confirmed through the County’s findings in approving the Talley Farm/Biddle Ranch agricultural cluster project, which like this Project is comprised of both designated Rural Lands and Agriculture Land. (See Comment Letter LV-25, Enclosure 1 [providing copy of County finding for Talley Farm/Biddle Ranch project, finding that the “number



of parcels allowed on the site is equal to the maximum number of dwelling units that could be allowed on a standard subdivision (i.e. two per parcel)].) This Project is vested under the 2003 LUO and the County's established policy of providing a parcel bonus for agricultural cluster projects, and therefore, the County must approve the parcel bonus as applicable for the entire site and allow 102 parcels. The County is not free to change its established policy more than a decade after the Applicant proposed this Project in reliance on the existing 2003 LUO and the County's policy of encouraging agricultural cluster projects by allowing a parcel bonus for these projects.

II. The Majority Of The FEIR's Alternatives Are Infeasible And Do Not Meet Most Of The Project Objectives

Most of the alternatives analyzed in the FEIR are unreasonable and infeasible. (See June 8, 2012 Comment Letter "LV-8-1" [addressing project alternatives]; see also August 23, 2013 Comment Letter "LV-14" at pp. 5-11, "LV-14-1," "LV-14-2" [same]; August 23, 2013 Comment Letter "LV-16" at pp. 3-5 [same]; May 7, 2014 Comment Letter "LV-32" [explaining proportionality requirements with respect to governmental land use approvals].) Many of the alternatives are legally infeasible because they seek to reduce the number of parcels below the number allowed by the 2003 LUO. (See August 23, 2013 Comment Letter "LV-13" [explaining applicant's vested rights and legal infeasibility of many of the FEIR's project alternatives].) In addition, most of the alternatives are unreasonable and do not meet the project objectives because they are not agricultural cluster project alternatives. Only the Mitigated Project allows the applicant to proceed with the development authorized by the 2003 LUO, in a manner that meets the project objectives *and* mitigates all but one environmental impact to less than significant (air quality).

In particular, the FEIR's conclusion that the "Redesigned Project B – Single Cluster Alternative, 93% Reduction" "environmentally superior" alternative is consistent with most of the project objectives is unreasonable. (See FEIR, at VI-36 – VI-37.) The FEIR presents the novel idea of an alternative being "potentially consistent" with project objectives. (*Id.* at VI-66.) However, CEQA requires consideration of project alternatives that meet most of the project objectives and does not permit the reviewing agency to modify the project objectives through only requiring possible or partial consistency with project objectives. (See 14 C.C.R. §15126.6(a) [requiring an EIR to describe a range of reasonable alternatives which would "feasibly attain most of the basic objectives of the project"]; see also 14 C.C.R. §15126.6(c) [identifying failure to meet most of the project objectives as a basis for eliminating alternatives from detailed consideration in an EIR].) By definition, a 7-residential-lot project is not an alternative to the proposed agricultural cluster project because the property owner could develop more than 7 residential lots under existing zoning, without any requirement of preserving land in open space and agricultural easements. The 93% Reduction alternative should be rejected on its face.

III. The Mitigated Project Would Result In Only A Single Class I Impact

As previously explained, the Mitigated Project reflects the applicant's efforts to reduce and mitigate environmental impacts, after careful consideration of the project objectives and project site. (See August 23, 2013 Comment Letter "LV-21" [describing efforts of applicant and project



team to minimize impacts and concluding that Mitigated Project would result in only one Class I impact[.]) The Mitigated Project would result in only a single Class I impact – an air quality impact. (See November 6, 2008 Comment Letter “LV-6” and attachments [providing analysis of environmental impacts]; June 11, 2012 Comment Letter “LV-9” and attachments [explaining how Mitigated Project reduces environmental impacts to less than significant]; August 23, 2013 Comment Letter “LV-16” [addressing EIR’s significant impact conclusions for Mitigated Project], see also August 23, 2013 Comment Letter “LV-16-2” [same].) Therefore, the FEIR’s conclusion that the Mitigated Project would result in fifteen Class I impacts is unreasonable and unsupported. (See FEIR, at VI-53 – VI-64.) Moreover, the FEIR’s treatment of impacts is arbitrary and inconsistent with County precedent, particularly for agricultural cluster projects. (See October 10, 2008 Comment Letter “LV-1” [describing and comparing treatment of impacts for other projects]; see also November 6, 2008 Comment Letter “LV-5” [same]; Comment Letter “LV-34,” submitted concurrently [providing excerpts of environmental documents for other projects approved by the County].) In sum, there is substantial evidence to support the County finding that the Mitigated Project will result in only one Class I impact, and of import, is that no project within the County would be able to avoid such an air quality impact as a significant impact.

A. Aesthetic Resources

*Aesthetics from Highway 101 and cumulative impact (AES Impact 4 and AES Impact 11):*¹ The FEIR’s conclusion that the Mitigated Project will result in aesthetic impacts with respect to views from Highway 101 is discriminatory and inconsistent with the County’s treatment of other projects, including other agricultural cluster projects, and prior projects on the same site. (See FEIR, at V.A.-15 – V.A.-19, V.A.-30 – V.A.-31, VI-11, VI-53 – VI-54; see also Comment Letter “LV-34” [providing excerpts of environmental documents for other projects].) In fact, the County previously granted a development plan for the winery and tasting room on the project site, to be located significantly closer to Highway 101 than the homes that would be developed as part of the currently proposed agricultural cluster project. (See Comment Letter “LV-34” [providing copy of 1984 resolution and staff report for Laetitia winery development plan].) In approving the development plan, the County allowed an exception to the then-applicable building height limits, and allowed two 37-foot towers to be built and found that the project would not have a significant adverse visual impact, despite the proximity to Highway 101 and the 37-foot towers. (*Id.*) These past County approvals and findings demonstrate that the County would be acting arbitrarily if it accepted the FEIR’s conclusions that the Project would have significant aesthetic impacts.

The FEIR avoids addressing the issue of consistent evaluation of environmental impacts by arguing that CEQA requires site-specific, individual analysis. (See e.g., FEIR at X.B.-5 [providing response to comments regarding consistency and arguing that “each project is assessed, pursuant to CEQA, based on the environmental setting of each site, and analysis of a specific project’s effects on the environment”].) While it is true that CEQA requires a site-

¹ The Final EIR rennumbers what was originally “AES Impact 18” as “AES Impact 11.” (See FEIR, at V.A.-31.) However, the FEIR does not consistently make that change throughout the document. (See e.g., FEIR, at VI-3, VI-54 [listing same impact as AES Impact 18].)



specific analysis, the County still has a legal obligation to consistently apply the same standards and analytical approach in evaluating the potential environmental impacts of proposed projects, including potential aesthetic impacts. The County's treatment of prior projects supports a conclusion that the Mitigated Project will not have significant aesthetic impacts and that it would be arbitrary for the County to conclude otherwise.

The Mitigated Project would not result in significant aesthetic impacts. It is unlikely that the Mitigated Project's homes would be visible from Highway 101 because vehicular traffic would be traveling at high speeds. Even if there was the potential for visibility, the homes would be over a mile away and thus aesthetically de minimis. (See August 23, 2013 Comment Letter "LV-16" at 2.) In addition, the FEIR's analysis of aesthetic impacts is based on photos taken with a camera utilizing a telescopic lens and photo-simulations, and therefore, is not based on a realistic assessment of potential views. (See FEIR, at V.A.-9.) A realistic assessment of potential views is conducted by driving 65 mph on Highway 101 and looking over a mile out. The Mitigated Project is designed to protect aesthetic and scenic resources of the property by: 1) clustering residential development and preserving agricultural and open space; (2) locating roads and structures to minimize visual impact; and 3) screening development through use of landforms, vegetation, and color choices. (See October 21, 2013 Comment Letter "LV-29" [describing consistency with goals and policies for scenic resource areas].) Therefore, the Mitigated Project will not result in significant impacts to aesthetic resources.

B. Agriculture Resources

Farmland Conversion and cumulative impact (AG Impact 1 and AG Impact 4): The FEIR's conclusion that the Mitigated Project would cause significant impacts to agricultural resources is unreasonable and unsupported. (See FEIR, at V.B.-16 – V.B.-21, V.B.-24 – V.B.-25, VI-11.) The FEIR continues to treat the conversion of agricultural lands to residential use as a significant agricultural impact, even though the Mitigated Project will not cause a net loss in cultivated agriculture and would protect approximately 93% of the project site in permanent open space/agricultural easements. (See October 29, 2008 Comment Letter "LV-6-6" [providing professional opinion that replanted areas will be successfully cultivated]; see also August 22, 2013 Comment Letter "LV-18" [explaining that Mitigated Project will result in "zero net loss of productive vineyards"]; April 2, 2014 Comment Letter "LV-31" [explaining that case law supports the use of agricultural conservation easements as mitigation for agriculture resource impacts].) The Mitigated Project will not reduce the amount of cultivated agriculture on the project site.

Land Use Conflicts Between Residential and Agricultural Uses (AG Impact 2): The Mitigated Project will not result in land use conflicts between residential use and agricultural production. (See FEIR, at V.B.-17 – V.B.-21, VI-11.) The FEIR's conclusions that the proposed buffers for the Mitigated Project "would be inadequate, and inconsistent with the County's buffer policy" lack support. (FEIR, at V.B.-17, VI-11.) The Mitigated Project's agricultural buffers were carefully designed for each residential lot, taking site conditions into account, and will ensure residential and agricultural uses are compatible. (See August 22, 2013 Comment Letter "LV-18" [providing expert opinion that site-specific buffers will ensure no impacts to agricultural operations].) The County Agriculture Department's recommendation of buffers of 500 feet around every lot (FEIR at V.B.-17) is advisory only and does not reflect the type of lot-specific



considerations that the applicable buffer policy recommends. (See LV-34 [providing copy of applicable buffer policy as appendix to General Plan].) Rather than the blanket 500-foot approach suggested by the Agriculture Department, the applicant considered the physical characteristics of each parcel and developed individualized buffers in light of those characteristics. Thus, the Mitigated Project's buffers are exactly the type of site-specific buffers recommended under the applicable buffer policy. There is no mandatory minimum buffer size that applies to the Mitigated Project and the County has no obligation to accept the Agriculture Department's conclusion that 500-foot buffers are necessary to avoid potential conflicts between residential use and agricultural use. The proposed buffers ensure there will be no such conflict.

C. Air Quality

Clean Air Plan and cumulative impact (AQ Impact 8 and AQ Impact 9).² Although the Mitigated Project would be consistent with the General Plan and policies that encourage agricultural clusters, the Mitigated Project would not be entirely consistent with all policies identified in the Clean Air Plan. Therefore, it is reasonable for the FEIR to conclude that the Mitigated Project would result in a significant impact with respect to air quality. (See FEIR, at V.C.-43 – V.C.-44, VI-11 – VI-12.) However, the FEIR double-counts the air quality impact as both a project-specific and cumulative impact. As explained previously, this treatment is inconsistent with CEQA. (See August 23, 2013 Comment Letter “LV-14” at 1-3 [addressing improper double-counting of environmental impacts].) Thus, a single impact to air quality is the only Class I impact that can reasonably be expected to occur as a result of the Mitigated Project.

D. Hazards and Hazardous Materials

Fire Hazards and Emergency Access (HM Impact 2): The FEIR's conclusion that the Mitigated Project will result in a significant impact associated with providing emergency access is not supported by substantial evidence in the record. (See FEIR, at V.G.-11 – V.G.-13, VI-13 – VI-14.) The Mitigated Project includes a guarded gate that will provide emergency access and egress via the Laetitia Vineyard Drive that is acceptable to the California Department of Forestry and Fire Protection/San Luis Obispo County Fire Department (“CAL FIRE”) and which will prevent non-emergency use of the secondary access by the Project. (See FEIR, at VI-13 – VI-14.) The FEIR's conclusion that the proposed emergency use of the Laetitia Vineyard Drive is not “feasible” lacks support. (*Id.*) The FEIR blindly accepts Caltrans' unsupported assertion that “identification of this road for secondary access is not consistent with the existing Encroachment Permit for the site.” (FEIR, at VI-14.) However, the actual referenced Encroachment Permit does not limit the use of the Laetitia Vineyard Drive to existing uses, nor does it preclude use of the Drive for emergency access. (See Comment Letter “LV-34” [providing copy of 1984 Encroachment Permit file, as provided by Caltrans to applicant's representative in response to a Public Records Act Request].) Therefore, the Project site has

² The Final EIR rennumbers what was originally “AQ Impact 9” as “AQ Impact 8” and rennumbers what was originally “AQ Impact 10” as “AQ Impact 9.” (See FEIR, at V.C.-43 – V.C.-44.) However, the FEIR does not consistently make those changes throughout the document. (See e.g., FEIR, at VI-3, VI-55 [maintaining original numbers for air quality impacts].)



an unrestricted right to use the Laetitia Vineyard Drive to access Highway 101 and that right includes access for emergency purposes.

It is absurd that Caltrans would take the position that the existing Laetitia Vineyard Drive cannot be used for emergency access to Highway 101. And the County has no basis for concluding that the Laetitia Vineyard Drive cannot be used in the case of an emergency. In fact, the Laetitia Vineyard Drive can provide necessary emergency access for the Project and for existing residences located within the canyon. Without this access, existing property owners have no recourse to evacuate their homes in the case of an emergency when their only escape is through bridges which may or may not be viable options for them. It is therefore in the interests of the County and its residents to recognize the Laetitia Vineyard Drive as a feasible means of providing emergency access. For these reasons, the County should conclude that the Laetitia Vineyard Drive provides acceptable and feasible emergency access for the project site and therefore, the Mitigated Project will not result in a significant fire hazard impact.

E. Noise

Agricultural Noise (NS Impact 3): The FEIR's conclusion that the Mitigated Project will result in significant noise impacts to residents due to noise associated with agricultural production is unsupported and contrary to CEQA. (See FEIR, at V.I.-17 – V.I.-19, VI-14.) As previously explained, these noise impacts are not impacts of the project on the environment subject to CEQA review, but rather, are the effects of the existing environment on the project. (See August 23, 2013 Comment Letter "LV-14" at 3-4 [explaining that such impacts are not environmental impacts for purpose of CEQA review].) Moreover, the Mitigated Project's site-specific buffers ensure that residents will not be significantly impacted by agricultural operations. Thus, the Mitigated Project will not result in significant noise impacts.

F. Public Services and Utilities

Cumulative demand for emergency services (PSU Impact 4): The FEIR's conclusion that the Mitigated Project will result in a significant impact associated with increased demand for emergency services is unsupported. (See FEIR, at V.L.-9 – V.L.-11, VI-14.) The project applicant is willing to pay an in-lieu fee that will mitigate the project's proportional contribution to the need for a new fire station and additional personnel. (See FEIR, at V.L.-10.) It is speculative to assume that building a new fire station will result in significant environmental impacts. (*Id.*, at V.L.-10 – V.L.-11.) Moreover, demand for public services is not an environmental impact under CEQA. (See August 23, 2013 Comment Letter "LV-14" at 4-5 [explaining that increased demand for public services is not an environmental impact under CEQA].) Therefore, the Mitigated Project will not result in significant impacts associated with public services.

G. Transportation and Circulation

Highway Operations and cumulative impact (TR Impact 4 and TR Impact 15): The FEIR improperly concludes that the Mitigated Project will result in significant impacts to Highway 101 and certain Highway 101 ramp junctions. (See FEIR, at V.N.-24 – V.N.-26, V.N.-39 – V.N.-42,



VI-17.) As previously explained, it is unreasonable for the County to apply a “one trip” threshold of significance for potential impacts to Highway 101 and ramp junctions. (See October 29, 2008 Comment Letter “LV-6-8” [addressing traffic impacts]; see also October 25, 2013 Comment Letter “LV-26” [addressing impact conclusions related to Caltrans facilities].) Substantial evidence supports the conclusion that the Mitigated Project will not change the existing levels of service and will not significantly impact operations on Highway 101 or at the ramp junctions at the Highway 101/Los Berros Road-North Thompson Avenue interchange.

Secondary Access and cumulative impact (TR Impact 10 and TR Impact 13): The FEIR unreasonably concludes that the Mitigated Project will result in a significant impact due to emergency access being provided via the Laetitia Vineyard Drive. (See FEIR, at V.N.-28 – V.N.-31, V.N.-37 – V.N.-38, VI-17.) As previously explained, the applicant is proposing to control the emergency access by installing a gate and a 24-hour guard who would control the gate. (See October 29, 2008 Comment Letter “LV-6-8” [addressing traffic impacts]; see also October 25, 2013 Comment Letter “LV-26” [addressing impact conclusions related to Caltrans facilities].) It is speculative and unreasonable for the County to conclude that a guarded gate will not effectively limit use of the Laetitia Vineyard Drive for emergency access. It is also unreasonable for the County to conclude that “a single unauthorized trip” on the Laetitia Vineyard Drive would result in a significant impact to Highway 101. (FEIR, at V.N.-30 – V.N.-31.) In addition, there is no record support for the conclusion that “implementation of gate controls that meet both Caltrans and CAL FIRE requirements is not feasible.” (FEIR, at V.N.-30.) As discussed above, there is no support for Caltrans’ position that the Laetitia Vineyard Drive cannot be used for secondary emergency access. (See FEIR, at V.N.-29 [stating that “the existing encroachment permit for the Highway 101 / Laetitia Vineyard Drive intersection is limited to trips generated by the existing vineyard and winery”].) The Project site has unlimited access to Highway 101 via the Laetitia Vineyard Drive. The proposed use of the Laetitia Vineyard Drive for emergency access is feasible and will not result in a significant traffic impact to Highway 101.

Road Improvements and secondary impacts to oak woodlands (TR Impact 9): The FEIR concludes that the Mitigated Project would result in significant secondary impacts to oak woodlands associated with road improvements. (See FEIR, at V.N.-30 – V.N.-33, VI-13, VI-62.) However, as explained in prior comment letters, the applicant’s team met with County Public Works staff and CAL FIRE staff, who agreed that it is possible to design the road improvements in a manner that avoids the need to remove trees along Upper Los Berros Road. (See August 22, 2013 Comment Letter “LV-16-3” [describing agreement with CAL FIRE staff regarding road improvement design to avoid impacts to trees]; see also October 25, 2013 Comment Letter “LV-27” at 3 [describing road design options to avoid impacts to trees].) Thus, the Mitigated Project’s road improvements will not result in significant secondary impacts to biological resources.

IV. The FEIR Improperly Double-Counts Environmental Impacts

The FEIR continues to improperly double-count the same impacts as both project-specific impacts and cumulative impacts. As previously explained, this treatment is inconsistent with CEQA and misrepresents the Mitigated Project’s potential environmental impacts. (See August



23, 2013 Comment Letter “LV-14” at pp. 1-3 [addressing improper double-counting of environmental impacts].) The FEIR double-counts five environmental impacts for the Mitigated Project. (See AES Impacts 4 and 11, AG Impacts 1 and 4, AQ Impacts 8 and 9, TR Impacts 4 and 15, TR Impacts 10 and 13.) If this error alone is corrected, and assuming *arguendo* that the FEIR’s significance conclusions are supported, the significant environmental impacts attributed to the Mitigated Project will be reduced by one-third, to 10 significant impacts. (See FEIR, at VI-64 [concluding that Mitigated Project will result in 15 Class I impacts].)

V. The FEIR Contains Errors With Respect To Air Quality Impacts And Mitigation Measures For Those Impacts

The FEIR contains numerous errors with respect to calculating air quality impacts and the mitigation measures required to address air quality impacts. As described in more detail in the attached letter (LV-33-2), these errors result in overly burdensome mitigation measures that are disproportionate to the project’s expected air quality impacts. These errors need to be corrected before the FEIR is certified.

VI. The FEIR Imposes Mitigation Measures That Are Unreasonable, Infeasible, and Disproportionate

The FEIR imposes a disproportionate burden on the Mitigated Project by requiring the applicant to construct and implement plans to “lengthen the deceleration lane at the southbound and northbound off-ramps by 50 feet and lengthen the northbound on-ramp merge acceleration lane by 25 feet.” (FEIR, at V.N.-26 [TR/mm-5].) As previously explained, traffic effects of the Mitigated Project on the Highway 101 mainline and at the ramp junctions would be nominal and would not significantly affect Highway 101 operations. (See October 29, 2008 Comment Letter “LV-6-8” [addressing traffic impacts].) The Mitigated Project would not change the current levels of service for Highway 101, nor would it significantly change the traffic densities. Despite the Mitigated Project’s nominal effects on Highway 101 ramp junctions, the FEIR imposes a mitigation measure that requires the applicant to lengthen deceleration and acceleration lanes for Highway 101 ramps. (See attached letter “LV-33-3” [addressing traffic impacts and ramp mitigation measure for Highway 101].) The ramp mitigation measure is unreasonable, infeasible, and disproportionate to the Mitigated Project’s nominal traffic impacts.

Mitigation measures must be proportional to a project’s expected impact. (See 14 C.C.R. § 15126.4 (a)(4) [requiring mitigation measures to be consistent with the constitutional principles of “nexus” and “rough proportionality”]; see also May 7, 2014 Comment Letter “LV-32” [discussing requirements of “nexus” and “rough proportionality” between governmental demands and the impacts of the proposed project]; November 6, 2008 Comment Letter “LV-5” at 5 [same].) Mitigation measure “TR/mm-5” is disproportionate to any impact the Mitigated Project may have on ramp operations because the ramp junctions “operate at LOS D both with and without the project.” (FEIR, at V.N.-25.) The County cannot require the applicant to mitigate an existing deficient condition and the Mitigated Project would not degrade the existing level of service for the Highway 101 ramps. Therefore, mitigation measure TR/mm-5 is legally infeasible because it imposes a disproportionate burden on the project.



In addition, as explained in the attached letter (LV-33-3), it is arbitrary for the County to impose mitigation measures associated with merging and diverging at ramp junctions because the County has not consistently applied freeway ramp analyses, impact determinations, or mitigation requirements for other projects that add traffic to Highway 101 ramps. The ramp mitigation measure must be eliminated from the FEIR.

VII. The Requested Changes To The Final EIR Will Not Trigger Recirculation

With these changes, the decision-makers are able to certify the EIR and approve the Mitigated Project. Further review and recirculation is not required because none of the conditions calling for recirculation are present. An EIR must be recirculated when significant new information is added to the EIR after notice of public review has been given, but before final certification. (CEQA Guidelines § 15088.5, Pub. Res. Code § 21092.1.) Recirculation is required under the following circumstances: (1) when new information shows a new, substantial environmental impact resulting either from the project or a mitigation measure; (2) when new information shows a substantial increase in the severity of an environmental impact, except that recirculation is not required if a mitigation measure reduces the impact to insignificance and the mitigation measure is adopted; (3) when the new information shows a feasible alternative or mitigation measure, considerably different from those considered in the EIR that would clearly lessen the environmental impacts, but which the project proponents decline to adopt, or; (4) when the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the Draft EIR was essentially meaningless. (CEQA Guidelines § 15088.5, Public Resources Code § 21092.1.)

None of these circumstances requiring recirculation are applicable to this project. Therefore, recirculation of the EIR is not necessary. The changes to the EIR proposed in the applicant's comment letters do not demonstrate any new substantial impacts. Rather, they confirm that many of the identified Class I impacts of the Mitigated Project are less than significant with the imposition of mitigation, which the applicant has agreed to accept, and where necessary, obtained the consent and approval of other responsible agencies such as CAL FIRE. Based on this analysis, the facts present, and standard for recirculation, the decision-makers may properly conclude that recirculation of the EIR is not required before certifying the EIR with the requested changes.

Thank you for your consideration of these comments.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation



ELIZABETH LEEPER
MONA G. EBRAHIMI



Mr. Brian Pedrotti
July 10, 2015
Page 11

Enclosures:

LV-33-1: Summary Chart Regarding Parcel Bonus for Agricultural Cluster Projects
LV-33-2: Sirius Environmental Letter Regarding Air Quality Impacts and Mitigation
LV-33-3: ATE Letter Regarding Traffic Impacts and Mitigation

cc:

James Bergman, Planning Director (via e-mail)
Jim Irving, Planning Commissioner (via e-mail)
Ken Topping, Planning Commissioner (via e-mail)
Eric Meyer, Planning Commissioner (via e-mail)
Jim Harrison, Planning Commissioner (via e-mail)
Don Campbell, Planning Commissioner (via e-mail)



LV-33-1

**Parcel Bonus Is Applicable in Both Agricultural and Rural Zoned Lands
for Ag. Cluster Projects**

AUTHORITY	FACTS	CONCLUSION
<p>2003 Land Use Ordinance:</p> <p>Section 22.22.150(B): Lands eligible for agricultural lands clustering are lands in “Agriculture or Rural Lands categories” that are “in agricultural use at the time of application.”</p> <p>Section 22.22.150(I): the “number of parcels allowed in an agricultural cluster division shall be equivalent to the number of dwelling normally allowed in the Agriculture land use category” [i.e. double parcel bonus because two dwellings per parcel normally allowed in Agriculture land use category]</p>	<p>The applicant has applied for an “Agricultural Lands Clustering” project on site with designated Agriculture and Rural Lands in agricultural use.</p> <p>Base number of parcels calculated for each land use category (Agriculture and Rural Lands) and then applied “parcel bonus” for agricultural lands cluster projects.</p> <p>Lands in the Rural Lands category are to be treated the same as those lands in the Agricultural Land category when included in an agricultural cluster project, (i.e. 100 percent parcel bonus).</p>	<p>The Agricultural Lands Clustering Ordinance provides a parcel bonus for the project. The parcel bonus applies to lands in the Rural Lands category and lands in the Agriculture Lands category.</p> <p>This interpretation is consistent with the County’s own policies to “<i>encourage</i> the use of clustering by allowing the number of clustered parcels to equal the number of dwelling units normally permitted on a standard agricultural land division.” (Section 22.22.150, emphasis added). Any other interpretation would contradict this policy and be irrational since no reasonable land owner would be willing to conserve the majority of its land in perpetuity without a double density bonus in the developed areas.</p>
<p>Biddle Ranch Ag. Cluster Project – Planning Commission Findings:</p> <p>Resolution No. 2003-17. Findings state, “The number of parcels allowed on the <i>site</i> is equal to the maximum number of dwelling units that could be allowed on a standard subdivision (i.e. two per parcel).” (Emphasis added.)</p>	<p>Biddle Ranch agricultural cluster project consisted of lands in the Agriculture and Rural Lands categories.</p> <p>If the Planning Commission believed that parcel bonus only applied in agriculturally zoned lands, the Findings would have distinguished between the Agriculture and Rural Lands. Instead, Commission found that parcel bonus applied to entire ag. cluster project <i>site</i>.</p>	<p>The Planning Commission made a finding that parcel bonus for ag. cluster projects was applicable on the entire Biddle Ranch site, which included Rural Lands.</p> <p>Biddle Ranch findings confirm that the 2003 Agriculture Cluster ordinance provides a parcel bonus for ag. cluster projects on both Agriculture and Rural Lands designated lands. To be consistent with precedent, the County must allow double density in both ag. and rural zoned lands for this ag. cluster project.</p>

AUTHORITY	FACTS	CONCLUSION
<p>Vested Rights (Statutes and Case Law):</p> <p>Once an application for a vesting tentative map is “complete,” the applicant has a vested right to proceed under the ordinances, policies and standards in effect at that time. (Gov. Code sections 66489.1-66498.9).</p> <p>“The most notable feature of a vesting tentative tract map is that on its approval or conditional approval, the right vests in the subdivider to proceed with the development in substantial compliance with the ordinance, policies, and standards in effect with the application was deemed complete.” (<i>Bright Development v. City of Tracy</i> (19930) 20 Cal. App. 4th 783.)</p>	<p>Project application for a vesting tentative map and conditional use permit for an agricultural cluster project was deemed complete on February 4, 2004.</p> <p>Land Use Ordinance (LUO) dated January 1, 2003 is applicable to the project. (Final EIR, p. X.B.-8)</p>	<p>Because the project application was “complete” in 2004, the applicant is vested in the ordinances, policies and standards in effect at that time. At that time, the 2003 LUO’s parcel bonus for agricultural cluster projects was in effect, which provided a parcel bonus for lands in Rural Lands or Agriculture Lands categories. The applicable standards and policies were confirmed by the planning commission’s Biddle Ranch findings, which found that the parcel bonus for ag. cluster projects applied to the entire project <i>site</i>—which was comprised of both agricultural and rural zoned lands.</p>
<p>Agricultural Cluster Subdivision Program (2012) EIR and Proposed Ordinance Revisions:</p> <p>Proposed Ordinance (Recommended Draft 8-30-12) strikes out the language in the LUO stating density bonus is allowed in “Agriculture or Rural Lands categories.”</p> <p>Draft EIR at pp. 4.1-12 through 4.1-13; and pp. 6-10 and 6-11).</p>	<p>EIR acknowledged that both ag. lands and rural lands are eligible for ag. cluster program and thereby qualify for density bonus.</p> <p>Staff attempted to amend the LUO to exclude rural lands from the ag. cluster program and thereby eliminate density bonus allowed in rural zoned lands.</p> <p>Board of Supervisors ultimately rejected these changes.</p>	<p>If the County believed that the LUO, with respect to density bonus allowance, was clearly not applicable to rural zoned lands, staff would not have proposed this change and the ordinance would speak for itself. Also, the EIR expressly acknowledged that density bonus applies to rural lands.</p> <p>The Board’s rejection of these changes confirms that density bonus <i>was</i> always applicable to rural zoned lands and illustrates its intent to <i>maintain</i> the double density bonus as applying to <u>both</u> agricultural and rural zoned lands.</p>



LV-33-2

Sirius Environmental

June 11, 2015

John Janneck
Laetitia Vineyard and Winery
453 Laetitia Vineyard Drive
Arroyo Grande, CA 93420

Re: Laetitia Agricultural Cluster Final EIR; Air Quality Analysis

Dear John:

As we have discussed I noticed a number of errors in the Final EIR Air Quality analysis in the reporting of results from the Air Quality modeling included in Appendix C.

Revising the FEIR to correct these errors would reduce the mitigation requirement for construction (the project would not exceed Tier 2 thresholds), but the level of impact would remain Class II (less than significant with mitigation). The operational analysis would also remain Class II, but only ROG/NOx and CO2e need be mitigated not DPM.

It's not clear how the FEIR calculates DPM. Typically PM10 exhaust is a proxy for DPM.

Construction

1. Table V.C-6 and Table V.C-7 use the wrong rows from CalEEMod to report winter and annual emissions. Both tables report totals of all peak day emissions for all years of construction added together (a meaningless number). Rather the table should pick the year in which peak day emissions occur and compare those emissions against the peak day emissions thresholds. The year in which peak ROG emissions occur is not the year in which peak NOx emissions occur, so the EIR should report the year where the maximum combined totals for project emissions for the peak year for the combination to compare against the combined total threshold.
2. Similarly for the annual emissions the FEIR reports the total for all years of construction and compares that total against an annual threshold (applicable to one year of construction not all years added together).
3. All the tables showing project and Dude Ranch emissions use the CalEEMod Fugitive Dust column to report PM10 emissions; the SLOAPCD thresholds are based on fugitive dust so that's appropriate, but the column headings should clarify it's Fugitive PM10 not total.
4. Suggested revised tables for the Ag Cluster are shown below.

Table VC.6-6 Agricultural Cluster Construction Emissions (Unmitigated)

	ROG	NOx	Fugitive PM10	DPM	CO2e
Winter Emissions (lbs/day)	99.33		19.57	3.80	CO2e daily and/or annual emissions are not relevant. For construction the total for all years (6,065.74 MT) is amortized over the life of the project.
Daily Threshold	137		na	7	
Mitigation Required	No		na	No	
Quarterly Emissions (tons)	3.22		0.64	0.12	
Quarterly Tier 1 Threshold (tons)	2.5		2.5	0.13	
Mitigation Required	Yes		No	No	
Quarterly Tier 2 Threshold (tons)	6.3		na	0.32	
Additional Mitigation Required	No		na	No	
Annual Emissions (tons/yr)	9.87		2.20	0.45	
Annual Threshold	25		25	na	
Mitigation Required	No		No	na	

Table VC.6-6 Agricultural Cluster Construction Emissions (Mitigated)

	ROG	NOx	Fugitive PM10	DPM	CO2e
Winter Emissions (lbs/day)	91.95		7.74	0.04	CO2e daily and/or annual emissions are not relevant. For construction the total for all years (6,065.74 MT) is amortized over the life of the project.
Daily Threshold	137		na	7	
Mitigation Required	No		na	No	
Quarterly Emissions (tons)	2.99		0.25	0.001	
Quarterly Tier 1 Threshold (tons)	2.5		2.5	0.13	
Mitigation Required	Yes		No	No	
Quarterly Tier 2 Threshold (tons)	6.3		na	0.32	
Additional Mitigation Required	No		na	No	
Annual Emissions (tons/yr)	7.4		0.87	0.004	
Annual Threshold	25		25	na	
Mitigation Required	No		No	na	

5. The exceedance of the quarterly emission threshold is all related to architectural coatings emissions in 2029 and 2030. In all likelihood those emissions would be spread over several more years reducing quarterly emissions, it would also be possible to specify lower emission coatings to reduce project emissions below the threshold. The model default was reduced to 71 g/l (consistent with mitigation measure AQ/mm-19dd); a further reduction to 50 g/l would reduce the impact below significance even assuming the same schedule. Coatings as low as 10 g/l are available.
6. The SLOAPCD handbook recommends the following measure for exceedance of the Tier I threshold: Standard Mitigation Measures and Best Available Control Technology (BACT) for construction equipment. If implementation of the Standard Mitigation and BACT measures cannot bring the project below the threshold, off-site mitigation may be necessary. These standard measures did not reduce the impact, because they are not related to the problem (the architectural coatings). Also these measures are not necessary because the phases of the project related to construction other than architectural coatings would not exceed the thresholds.
7. The Dude Ranch tables do not make the same mistake with respect to using the CalEEMod row showing total all years to compare against a peak day or annual threshold. But it uses total PM10 to

compare against the Fugitive PM10 threshold and again uses something other than PM10 exhaust for DPM resulting in an exceedance of the DPM Quarterly threshold which would not occur if the PM10 exhaust column is used. The reasons for the extremely high ROG emissions for the hotel is because the modeler did not alter the default architectural coatings emissions rate; also the time to paint the entire hotel (20 days) is extraordinarily short resulting in relatively high daily emissions. For the Ag Cluster the default was changed from 250 g/l to 71 g/l. Paints as low as 10 g/l are available. Reduced emissions from architectural coatings would be the best mitigation measure available to lower the high hotel emissions.

Operational Analysis

8. For the operational emissions the tables again report something other than PM10 Exhaust for DPM resulting in exceedance of the operational threshold (there is also an incorrect addition of the numbers that are in Table 10 for DPM). If the PM10 Exhaust column (total of 0.8 lbs per day unmitigated) is used, the project operational emissions would not exceed the threshold before mitigation.
9. Page V.C-35 indicates that annual construction GHG emissions would be up to 663.88 MTCO₂e/yr *for the peak year*. The CalEEMod printout provides the emissions for all the years and the total 6,065.74 MTCO₂e bringing the amortized amount over 50 years to 121.32 MTCO₂e/yr (not 13.28 MTCO₂e/yr). Annual GHG operational emissions are 2,246.71 MTCO₂e per day from all sources; with the amortized construction, annual emissions would be 2,368.03 (not 2,259.99 MTCO₂e), including 1,665.51 MTCO₂e/yr from mobile sources and 366 MTCO₂e/yr from energy consumption and 90.2 MTCO₂e/yr from area sources (mostly 87.85 MTCO₂e/yr from hearths – wood burning fireplaces, although mitigation measure AQ/mm-19s does not allow residential wood burning devices).
10. The project would result in exceedance of the operational ROG/NO_x threshold of 25 lbs per day (with emissions of 45.96 lbs per day) and would therefore be required to implement at least 18 Mitigation Measures, and according to the SLOAPCD Handbook *may* need to implement off-site mitigation depending on effectiveness of the mitigation measures. AQ/mm-20 requires off-site mitigation for all emissions over 25 pounds per day ROG/NO_x and 1,150 MT/Year CO₂e (DPM should not be referenced in this measure), subject to SLOAPCD approval.

The project will be built out over a number of years and it may well be that the project is able to substantially reduce on-site emissions without resorting to off-site emissions reductions.

For example, the CalEEMod print out identifies 13.65 lbs per day ROG/NO_x operational emissions from consumer products and no mitigation for these emissions is identified. It is related to the model assumption of each home being 6,000 sf the areas of each home are not known and may be less than this. In addition, as identified in CalEEMod Users Guide Appendix A, Emissions = EF (2.14×10^{-5} lbs/sq.ft./day) x Building Area. ARB has instituted regulations to reduce emissions from Consumer Products that have not yet been incorporated in to CalEEMod (which is based on emissions in 2008 – see CalEEMod Appendix E).

In addition, the operational analysis assumes that an off-highway truck would operate 8 hours per day (resulting in 6.75 lbs per day of ROG/NO_x – mostly NO_x). To reduce these emissions prohibit diesel-powered equipment within the cluster.

Given the extended build out to completion, potential changes in emissions from on-site sources (both stationary and mobile), the may be able to achieve the desired emissions target and may not need to implement off-site emissions.

Mitigation

11. The model assumes 4,042,734 vehicle miles travelled per year (about 39,600 miles per year per home or 108 miles per day per home). No mitigation is quantified used to reduce VMT or emissions from these miles. There are a number of strategies that the applicant and/or homeowners could undertake that would substantially reduce emissions including:

- Off-site measure: Fast Charger for electric vehicles at the winery
- Concierge to deliver groceries to homes
- Homes wired to encourage telecommuting.
- Provide electric vehicle wiring/charging in each house to reduce emissions;
- Homeowners use of (increasingly popular) electric vehicles or other alternate energy vehicles.
- Provide info to residents on local transit, bicycle and pedestrian options for travel.
- On-site accommodations for nannies, housekeepers.
- Complimentary cordless lawnmower to each residence.
- Implement Clean Air Business practices such as using low-emission delivery vehicles.
- Facilitate car pooling/provide a shuttle – homeowners, housekeepers?

Consistency with the APCD's Clean Air Plan and Smart Growth Principles

12. The April 2012 Air Quality handbook (as updated in July 2014), requires that project-level consistency with the Clean Air Plan (CAP) be conducted as follows:

Project-Level environmental reviews which may require consistency analysis with the Clean Air Plan and Smart/Strategic Growth Principles adopted by lead agencies include: subdivisions, large residential developments and large commercial/industrial developments. The project proponent should evaluate if the proposed project is consistent with the land use and transportation control measures and strategies outlined in the Clean Air Plan. If the project is consistent with these measures, the project is considered consistent with the Clean Air Plan.

Consistency with any planning document including CAPs is determined by assessing whether a project is generally consistent with the overall plan. Consistency with an entire plan is not determined policy, by policy or by groups of policies, it is determined by viewing the project in the context of all the policies and strategies and determining whether the project as a whole is on balance consistent with the plan. Impacts AQ Impact 8 and AQ Impact 9 (also referred to in the Alternatives section as Impacts 9 and 10) appear to be the same impact. We agree that while the project includes a

John Janneck
June 11, 2015
Page 5

number of measures to reduce emissions, the project is not consistent with several of the strategies and policies relating to growth outside urban areas conservatively leading to a conclusion of significance with respect to consistency with the CAP.

The project is required to pay the South County Air Quality Mitigation fee and with AQ/mm-20 net emissions from the project are required to be less than the thresholds of significance: 25 pounds per day ROG/NOx and 1,150 MT/Year CO₂e. With mitigated emissions below these thresholds, the impact would be entirely related to a cumulative considerable contribution to air emissions (unless there is some uncertainty that the project can reduce emissions below these thresholds, in which case it would be a project impact).

The 2014 SLO RTP/SCS was adopted, with minor changes, April 1, 2015. The RTP/SCS provides the growth assumptions for the CAP. The RTP does not prohibit residential development in rural areas, rather it promotes/encourages increased density and development in target development areas. It also encourages preservation of farmlands, agricultural lands and open space/critical environmental areas. The RTP anticipates that 2.8% would be in rural areas (about 500 units in the entire County) and encourages preservation of farmland, agricultural lands and preservation of open space and critical environmental areas. Therefore, the Lactitia project may not be inconsistent with growth assumptions.

13. In the alternatives chapter the former AQ Impact 8 remains, leading to some minor confusion regarding numbering of AQ impacts. The two impacts related to the CAP are either 8 and 9 (in the REIR air quality section), or 9 and 10 in the Alternatives table (page VI-55).

Sincerely,



Wendy Lockwood
Principal

LV-33-3



Since 1978

ASSOCIATED TRANSPORTATION ENGINEERS

100 N. Hope Avenue, Suite 4, Santa Barbara, CA 93110 • (805) 687-4418 • FAX (805) 682-8509

Richard L. Pool, P.E.
Scott A. Schell, AICP, PTP

June 23, 2015

06092L13

Wendy Lockwood
Sirius Environmental
1478 North Altadena Drive
Pasadena, California 91107

REVIEW OF TRANSPORTATION/CIRCULATION SECTION AND RESPONSE TO COMMENTS CONTAINED IN THE LAETITIA AGRICULTURAL CLUSTER PROJECT FEIR, COUNTY OF SAN LUIS OBISPO

Associated Transportation Engineers (ATE) reviewed the Transportation and Circulation section of the Final Environmental Impact Report (FEIR) prepared for the Laetitia Agricultural Cluster Project. The project is proposed in the Nipomo area of County of San Luis Obispo County. ATE provided comments on the Transportation and Circulation section of the DEIR. Our review of the FEIR shows that no major changes were made to the Traffic and Circulation section of the document based on those comments.

We understand that the applicant is agreeable to those mitigation measures related to Sheehy, Dana Foothill and Upper Los Berros and is in discussion with County staff regarding participating in the South County area 2 Road Improvements District to address Los Berros / Thompson Road intersection improvements at Highway 101. Our comments therefore focus on one measure – TR/mm-5, the requirement to lengthen acceleration and deceleration lanes at the on- and off ramps at the US Highway 101/Los Berros Road/North Thompson Road interchange.

We believe that an LOS D threshold (based on the Caltrans' Transportation Concept Report for Route 101) is appropriate, however, the FEIR uses a LOS C threshold (based on Caltrans' Traffic Impact Study Guidelines). We understand that this is an internal inconsistency on Caltrans' part.

As we pointed out in our original comments on the DEIR, operational analyses of freeway merging and diverging at ramp junctions and mitigation requirements for ramp lengthening is atypical for traffic studies prepared for environmental documents in the County. Other recent EIRs completed for developments located in the County do not address ramp merging and diverging. For example, the traffic impact thresholds contained in the Dana Adobe Nipomo Amigos LUO Amendment and CUP (October 2013) includes the LOS C threshold for U.S. 101 facilities, however the FEIR does not include an analysis of freeway ramp merge and diverge operations. Similarly, freeway ramp merge and diverge operations were not analyzed in the Chevron Tank Farm Remediation and Development FEIR (December 2013), the Conoco Phillips Santa Maria Refinery Project EIR (August 2011), or the Hanson Santa Margarita Quarry Expansion EIR (March 2015). All of these projects result in traffic additions to U.S. 101 on and off ramps.

In the EIR for the Oster/Las Palitas Quarry Project, the freeway merge and diverge operations were analyzed, however the County concluded that project would not generate significant impacts to existing LOS D operations at the ramps because the LOS did not change with the addition of project traffic (similar to the Laetitia Project).

Based on the above, it is clear that the County has not been consistent in its application of freeway ramp analyses, impact determinations, and mitigation requirements for other projects that add traffic to the U.S. 101 freeway ramps.

The data presented in Table V.N. – 11 of the FEIR show that the project's traffic additions would:


- 1) Not change the existing density or LOS at the Thompson/US 101 NB Off-ramp (PM) and Los Berros /US 101 SB On-ramp (PM) – a less than significant impact;
- 2) Change the density by only 1 passenger car per mile at the Los Berros/US 101 SB Off-Ramp (PM) with no change in LOS – a less than significant impact.

Therefore based on the analysis in the EIR we would conclude that the project-specific impact to the ramps is less than significant.

It appears that the threshold of significance used to justify this mitigation measure is the addition of "any traffic" to the U.S. 101 ramps and mainline. Clearly such a threshold is not consistent with County practice (or any reasonable interpretation of Caltrans' requirements) in analyzing other development projects, since then even projects that normally receive Categorical Exemptions would be required to prepare EIRs.

The mitigation to lengthen the deceleration lane on the northbound and southbound off-ramps by 50 feet; and lengthen the northbound on-ramp acceleration lane by 25 feet is a speculative measure. We doubt that Caltrans would approve such modifications because they would result in little or no benefit to traffic operations and the costs and upset to existing traffic operations would outweigh any operational benefit.

Associated Transportation Engineers



Scott A. Schell, AICP, PTP
Principal Transportation Planner

SAS/DLD

RECEIVED

August 3 2015

AUG 05 2015

Brian Pedrotti
County Planning Dept.
976 Osos St., Rm 300
San Luis Obispo, CA 93408

PLANNING & BUILDING

Dear Mr. Pedrotti:

I am writing to inform you that I have been a long-time resident of the Los Berros Canyon area off of Upper Los Berros Rd. My family moved in June 1985, and built a home which was completed in July 1986. The water well and water quality have always served us well.

I am very concerned about the proposed development to be presented by the owner and developer of the Laetitia Winery. There have already been many residents in the general area that have experienced dried up wells, and the project has not even started. What is going to happen when 103 homes are built, each with one-acre lots. Where is the necessary water going to come from, and what about the long-term impact on those of us with existing wells. Sooner or later all of our water wells will diminish, and speaking for myself, I certainly cannot afford to have water brought up to my property. It would be excessively expensive and extremely inconvenient. With the drought being so widespread throughout the entire state of California, the governor has mandated that all local cities control water use in the most prudent manner possible.

In addition to the water issue, there is also a problem of traffic concerns. It will be very difficult to travel to and from the canyon area and all along Dana Foothill. There are too many people whose lives will be greatly impacted by such a development.

Please consider the long-term effects of implementing a development proposed by the Laetitia Winery.

I do plan to attend the meeting on August 13.

Sincerely yours,



Louise Frye, Resident
1277 Haven Hill Way
Nipomo CA 93444
805-481-7561



400 Capitol Mall, 27th Floor
Sacramento, CA 95814

T | 916.321.4500
F | 916.321.4555

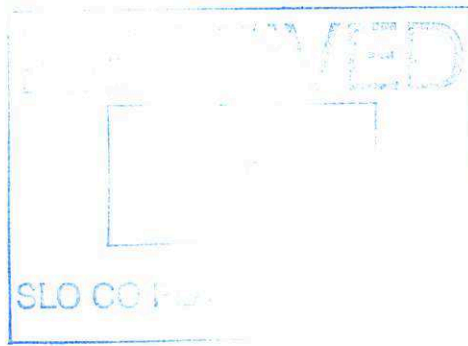
Mona G. Ebrahimi
mebrahimi@kmtg.com

Elizabeth Leeper
eleeper@kmtg.com

August 7, 2015

VIA FEDEX AND E-MAIL

Members of the Planning Commission
County of San Luis Obispo
Department of Planning and Building
County Government Center
976 Osos Street, Room 300
San Luis Obispo, CA 93408



Re: **Staff Report Prepared For The Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit**

Dear Members of the Planning Commission:

This office represents the applicant for the Laetitia Agricultural Cluster Project and this letter is in response to the staff report prepared for this project, which will come before you on August 13, 2015.

After almost a decade of review and analysis on this project, coupled with hundreds of thousands of dollars expended on studies and reports, it was our expectation that staff would provide, at the very least, an objective staff report. Instead, what is presented before you is an unfortunate attempt to circumvent application of the County's precedential policies, by skewing the language in the Land Use Ordinance and General Plan to serve staff's objective of undermining the County's established policy of encouraging agricultural cluster projects. The staff's recommendation of denial of this project is not based on an objective analysis or presentation, it is an attack on the proposed project, and on agricultural cluster projects as a whole.

Not only is the staff report a biased perspective of those who have been so transparently against this project from the date the application was deemed complete by operation of law, but even worse, it misinforms you as decision-makers.

Our office and the applicant's expert consultants have previously addressed all of the issues that staff claims to be insurmountable for them to recommend approval of this project. I urge you to review comment letters LV-1 through LV-35 which provide detailed explanations, supported by substantial evidence in the record, about the environmental impacts of this project and why approval of the applicant's mitigated project is not only the right decision, but the best decision for the community.

Finally, as further evidence of bias towards this project, please note that attachment 3 to the staff report, which is inclusive of comments received on the project after publication of the Final EIR, is a selective compilation of documents, not inclusive of the documents prepared and

Members of the Planning Commission
August 7, 2015
Page 2

provided by the applicant team. For example, the applicant submitted a chart to the County which demonstrated how certain class I impacts were being double-counted in the EIR, yet that document was never included in your packet.

Thank you for your consideration.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation



MONA G. EBRAHIMI
ELIZABETH LEEPER

cc:

James Bergman, Planning Director (via e-mail)
Brian Pedrotti, planner (via email)



From: Bill Thoma

Sent: Monday, August 10, 2015 11:33 AM

To: 'vshelby@co.slo.ca.us'; 'bgibson@co.slo.ca.us'; 'ahill@co.slo.ca.us'; 'jbrennan@co.slo.ca.us'; 'district5@co.slo.ca.us'

Subject: Laetitia Project Cluster Development

Dear Chair Arnold and SLO County Commissioners:

I am sorry that due to prior business obligations, I cannot attend the public hearing for The Reserve at Laetitia ag cluster project, but I do want to offer my thoughts about ag clustering. I built a home in the Edna Ranch ag cluster nearly 17 years ago, I had a desire to live in a beautiful agricultural environment whose strict development standards, water plans and integration with working and variant agriculture made for a winning combination. The cluster accomplishes all three and my family and I are thrilled with our decision. I am a SLO county native with a deep passion for this community and every time I pass through the Edna Valley on my way home I feel grateful that our county has a mechanism for preserving our gorgeous land while accommodating residential development.

I understand the staff has recommended denial of the Laetitia project. I hope you will dig deep to find reasons why the project SHOULD succeed, rather than finding roadblocks to making it happen. A drive past Edna Ranch will provide inspiration, knowing that the preservation of the 1700 areas beyond our development (the cluster) in the valley, is protected into perpetuity.

Sincerely, Bill Thoma

Good morning Ms. Hedges,

Will you please circulate to planning commissioners and planning staff in advance of the Thursday hearing on Laetitia? Thank you.

The Reserve at Laetitia has been in the planning process for nearly 14 years. The family owners of Laetitia Vineyard and Winery have worked to meet every request the County has made for this Ag Cluster project; archeological studies, road improvements, land buffers near homes, restricted landscaping, site plan reworks, emergency access and an onsite water treatment and recycling plant. Three experts have stated that there is more than enough water to serve the homeowners. The Reserve is a forward thinking project that will contribute handsomely to our local tax and other revenue coffers to the tune of \$4.5 million in property taxes alone at full build out. It's time to say yes to this tremendous opportunity as we may not get another chance.

Respectfully,

Richard Malvarose

Nipomo Chamber of Commerce President

--

Respectfully,

CW4(R) Richard Malvarose

C - 805.868.7951

O - 805.929.4970

F - 866.398.8701



Laetitia housing project

Dale Beebe

to:

rhedges

08/07/2015 02:21 PM

Hide Details

From: Dale Beebe <pentooling@gmail.com>

To: rhedges@co.slo.ca.us

6 Attachments



image.png To the San Luis Obispo County Planning Commission.docx



WELL WATER DEPTH 1885 CALLE LAGUNA, ARROYO GRANDE - PLOT.jpg 1885_Calle_Laguna - Well Test - at 1996 DRILLING.jpg



1885_Calle_Laguna - Well Test - 2011 ESCROW.jpg 1885_Calle_Laguna - Well Test - 2015.jpg



Ramona:

Per our phone conversation this morning, please forward this to my district's representative on the planning commission, who, I believe, is Jim Harrison, as

my parcel # is 091-101-044. I will include the text here in the body of the email as well as including it as the first attachment. Please print out and forward all 4 attachments to the Commissioner.

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Thanks,
Dale Beebe

t 9b Qh h [Lb D

To: San Luis Obispo Planning Commission

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8/7/15

Please stop the Reserve at Laetitia development from adding 101 new houses that will draw on the same aquifer that my home at 1885 Calle Laguna, Arroyo Grande uses. My home is right across Rt. 101 from Laetitia and the aquifer below us has been dropping at a rate of 2.79 feet per year since my well was drilled in 1996. This is documented in the attachments which include three measurements made by Filipponi & Thompson Drilling Company over the last 19 years.

The banter in the media justify Laetitia's housing development based on someone's concept of its being "Water Neutral". "Neutral" in this context implies maintaining the status quo, which, as pointed out and substantiated by the attached data, has the aquifer dropping at a very linear rate of almost 3 feet per year, and the data lines up in a very straight downward sloping curve, substantiating a remarkably linear and constant trend. This trend has been consistent at the same rate for a period beginning 15 years before the drought through this year, not being exacerbated by the drought, but by population and agricultural realities, which have to change, not stay "neutral".

At the present rate of decline, the water level will reach the depth of my pump in a very short time and my home will not be habitable or sellable. I am on a fixed income and cannot drill a new well. I had been planning on living out my years here.

Please do not let developers walk off with their profit from the destruction of our aquifer.

Unless Laetitia is going to produce water somehow, or import water from Lake Michigan and pay for it to recharge the aquifer, **PLEASE, PLEASE, PLEASE DO NOT LET LAETITIA PUT IN A 101 UNIT HOUSING DEVELOPMENT.**

Dale Beebe

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